

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CRIMINAL CASE NO. 3:00cr68

UNITED STATES OF AMERICA,)
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)
)
vs.) O R D E R
)
)
RONNIE LOGAN.)
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)

THIS MATTER is before the Court on the Defendant Ronnie Logan's letter, which the Court shall construe as a motion, asking for correction of a clerical error in the Court's Order denying his motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). [Doc. 63].

On November 26, 2008, Logan moved through court-appointed counsel for a reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 706 to the Sentencing Guidelines. [Doc. 47]. The Court denied this motion on January 13, 2009. [Doc. 54]. The Court based its decision on the fact that the original sentence in this case was limited to a statutory maximum of 240 months by Apprendi v. New Jersey, which then became the applicable guideline range per U.S.S.G. § 5G1.1(a). The revised guideline range being similarly limited, the Court concluded that the

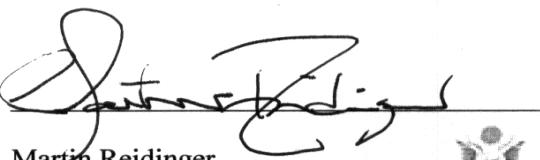
guideline range remained unchanged. The Fourth Circuit affirmed the Court's decision on November 20, 2009. [Doc. 62].

Logan contends that in calculating his amended Guideline range, the Court failed to consider the offense level he received after receiving a reduction pursuant to U.S.S.G. §5K1.1. This argument is without merit. Amendment 706 is not applied to a purported offense level which results from a motion pursuant to U.S.S.G. §5K1.1 and 18 U.S.C. §3553(e). See United States v. Lindsey, 556 F.3d 238, 245 (4th Cir.), cert. denied, 130 S.Ct. 182, 175 L.Ed.2d 114 (2009); United States v. Hood, 556 F.3d 226, 234 (4th Cir.), cert. denied, 130 S.Ct. 321, 175 L.Ed.2d 212 (2009). The Defendant's Guideline range was correctly calculated.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's letter [Doc. 63] is construed as a motion to reconsider and is hereby **DENIED**.

IT IS SO ORDERED.

Signed: April 13, 2010



Martin Reidinger
United States District Judge

